

California Regional Water Quality Control Board
Santa Ana Region

May 27, 2005

STAFF REPORT

ITEM: 8

SUBJECT: Appeal of Staff's Denial of an Exemption from the Minimum Lot Size Requirement for Subsurface Disposal System Use – Michael & Suzanne Robitzer, 16435 Trisha Way, Riverside, Riverside County, APN 273-110-035-6

DISCUSSION:

On April 25, 2005, Michael Robitzer contacted staff requesting an exemption from the Board's minimum lot size requirements for the use of a second septic tank-subsurface disposal system on a 0.55-acre lot at 16435 Trisha Way, Riverside.

There is currently a home on the lot that is connected to an existing septic tank-subsurface disposal system. This area of Riverside is unsewered. Mr. & Mrs. Robitzer purchased the lot/home with the intention of constructing a 952 square feet, 1-bedroom/1 bath second dwelling unit on the lot, where they could care for their disabled in-laws Charles and Anna Jane Capps.

On October 13, 1989, the Regional Board adopted Resolution No. 89-157, which requires new developments for which on-site subsurface disposal system use is proposed to have a minimum one-half acre of land per dwelling unit. The Board found that it was necessary to limit the density of new subsurface disposal systems to control the nitrate quality problems found in the groundwater of the Region. Mr. & Mrs. Robitzer's proposed development is a new development as defined in Resolution No. 89-157 and is therefore subject to the minimum lot size requirements specified therein. With a density of 0.275 acres per dwelling unit, Mr. & Mrs. Robitzer's proposal does not comply with the Board's minimum lot size requirements. Accordingly, Board staff denied Mr. & Mrs. Robitzer's request for an exemption from the minimum lot size requirements.

Mr. & Mrs. Robitzer note that the additional flows that would occur as a result of this project would be no greater than the flows that would be allowed if they were to add on to the existing house and replace the existing septic tank to accommodate the increased flows, which would be exempt from the minimum lot size requirement. On this basis, Mr. & Mrs. Robitzer are appealing to the Regional Board for reversal of staff's denial of an exemption from the minimum lot size requirements.

The minimum lot size exemption criteria to be used by Board staff specify that replacement of existing septic tank-subsurface disposal systems to allow additional flows resulting from additions to existing dwelling units is exempt from the one half acre requirement. However, the Board's exemption criteria specifically state that such an exemption does not apply to the

addition of freestanding structures, such as a second home on the Robitzer's property. In establishing the exemption criteria, the Board made this distinction because of the potential that the addition of freestanding structures could result, either immediately or in the future, in substantially greater wastewater flows than would be expected as the result of additions to an existing dwelling.

While it is true that there would be no difference in wastewater flows on an immediate basis, i.e., while Mr. & Mrs. Robitzer owns the property and their parents reside with them, there can be no guarantee that wastewater flows would not increase considerably in the future. As stated above, it was on this basis that the Board determined not to exempt the addition of freestanding structures from the minimum lot size requirements. Mr. & Mrs. Robitzer have offered to remove the second home and septic system from the property once it is no longer required and have agreed to enter into an Agreement of Restriction to be recorded with the property Chain of Title that stipulates that this property may not be sold until the second home and septic system have been removed.

RECOMMENDATION:

Approve Mr. & Mrs. Robitzer's request for an exemption from the minimum lot size requirement specified in Resolution No. 89-157 with the following stipulations: 1) Once the second home is no longer required for use of the Robitzer family, it shall be removed from the property and the septic tank shall either be demolished or removed from service by filling the tank with sand after proper removal and disposal of septage; and 2) Mr. & Mrs. Robitzer must enter into an Agreement of Restriction, which shall become a part of the Chain of Title, that the property may not be sold until the second home has been removed and the second septic system has been demolished or removed from service.

Comments were solicited from the following agencies:

State Water Resources Control Board, Office of Chief Counsel – Jorge Leon
Riverside County Environmental Health – Sam Martinez
Riverside County Building and Safety – Steve Dondalski
Riverside County Planning – Mark Balys
Charles and Anna Jane Capps, 138 Remington Drive, Raeford, NC 28376